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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,334	01/30/2004	Michael Maschke	P03,0570	7387

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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT PAPER NUMBER

3768

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/769,334

Applicant(s)

MASCHKE, MICHAEL

Examiner

Jaworski Francis J.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatzke (US6705992) in view of applicant's prior art admissions, further in view of Schuman et al (US6440072), alone or further in view of Duich (US5947907) and Lin et al (US6547730), and further in view of Gilbert et al (US6530887, newly of record).

Gatzke teaches that a patient monitor may consist of sensors and interface and ultrasound imager configured as a module 10 along with other vital signs modules 40, 50, 70 and using the common monitor display, Figs. 3a-3b. Applicant's prior art admission is that the unshaded portion of Fig. 2 is old, namely that the conventional multiple sensor type monitor included sensors and their interface and associated hardware and software modules therefore. In combination however this prior art combination fails to specifically teach a hardware and software module and interface for the ultrasound probe 30 except to note that software may commonly govern each of the sensor or transducer input modalities, see cols. 4-5 bridging in Gatzke. However it would have been obvious in view of Schuman et al 100 to provide an intermediate interface of hardware and software to transfer information from a portable cable-connected ultrasound probe head to a portable imaging computer processing software as called for in Gatzke since this allows for example infrared or wireless transmission,

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In the alternative, both Duich (use of modular hardware and software modular controls) for vital sign sensor channels including spare or replaceable modules 102 docked into 104 for failsafe purposes attendant to medical monitoring and Lin et al (use of hardware and/or software modules for ease of upgrade purposes) suggest combined use of modular hardware and software respectively for physiologic parameter and ultrasound image monitoring such that incorporation of these features found in both modes into the modular hybrid system of Gatzke would have been well-known.


Since in Gilbert et al it is evidenced that it was well-known that the probe head might be wirelessly connected to the system electronics in order that the device be more movable, see col. 3 bottom, it would have been obvious to incorporate this feature into the former in order to make diagnostic access to the patient more flexible.

This action is not made final however the case should be p[repared for final action.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

05/29/06


Francis J. Jaworski
Primary Examiner